

ORDINANCE NO. 430

AN ORDINANCE AMENDING AND RE-ENACTING ORDINANCE NO. 413 REGULATING CITY SALES, USE, AND GROSS RECEIPTS TAX UNDER THE HOME RULE CHARTER OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, AS FOLLOWS:

That Ordinance No. 413 of the City Ordinances of the City of Beulah, Mercer County, North Dakota, is hereby amended and re-enacted as follows:

SALES, USE, AND GROSS RECEIPTS TAX

Section 1: Definitions.

All terms defined in chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2 of the North Dakota Century Code (N.D.C.C.), including all future amendments thereto, are adopted by reference. All references to the N.D.C.C. include amendments adopted by the North Dakota Legislative Assembly.

Section 2: Collection and Administration.

Where not in conflict with the provisions of this Ordinance, the provisions of N.D.C.C. chapters 40-05.1, 57-39.2, 57-39.4, 57-39.5, 57-39.6, and 57-40.2, and all administrative rules adopted by the Tax Commissioner, pertaining to the collection and administration of the retail sales, use, and gross receipts tax, including provisions for liability, refund, penalty, interest or credit, govern the administration by the North Dakota Office of State Tax Commissioner (hereinafter "Tax Commissioner") of the taxes imposed by this Ordinance.

Section 3: Sales Tax Imposed

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided by this Ordinance, or the sales and use tax laws of the State of North Dakota, a tax of two percent (2%) is imposed upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property, within the corporate limits of the city of Beulah, North Dakota.

Section 4: Use Tax Imposed.

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, or the sales and use tax laws of the State of North Dakota, an excise tax is imposed upon the storage, use, or consumption within the corporate limits of the city of Beulah, North Dakota of tangible personal property purchased at retail for storage, use, or consumption in this city, at the rate of two percent (2%) of the purchase price of the property. An excise tax is imposed on the storage, use, or consumption within the corporate limits of the city of Beulah, North Dakota of tangible personal property not originally purchased for storage, use, or consumption in this city at the rate of two percent (2%) of the fair market value of the property at the time it was brought into this city.

With respect to the purchase price of tangible personal property used by a contractor or subcontractor to fulfill a contract as defined in N.D.C.C. § 57-40.2-03.3, the tax imposed by this section applies only to bids submitted on or after the effective date of this Ordinance.

Section 5: Gross Receipts of Alcoholic Beverages.

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of two percent (2%) is imposed upon all gross receipts from the sale of alcoholic beverages within the city. A person who receives alcoholic beverages for storage, use, or consumption in this city is subject to tax on storage, use, or consumption of those alcoholic beverages at the rate of two percent (2%).

Section 6: Gross Receipts of New Farm Machinery and New Farm Irrigation Equipment.

Subject to the provisions of N.D.C.C. § 40-05.1-06, and except as otherwise provided in this Ordinance, a gross receipts tax of two percent (2%) is imposed upon all gross receipts from the sale of new farm machinery and new farm irrigation equipment within the city. A person who receives new farm machinery or new farm irrigation equipment for storage, use, or consumption in this city is subject to tax on storage, use, or consumption of that machinery and/or equipment at the rate of two percent (2%).

Section 7: Exemptions.

In addition to the exemptions provided by state law, this Ordinance provides exemptions from imposition and computation of the city sales or use tax for sales of the following:

1. All sales, storage, use or consumption of tangible personal property which

are exempt from imposition and computation of the sales or use tax of the State of North Dakota are specifically exempt from the provisions of this Ordinance.

Section 8: Maximum Tax Imposed.

Any patron or user paying a tax imposed by this Ordinance in excess of Twenty Five Dollars (\$25.00) upon any single transaction of one or more items may obtain a credit or refund of the excess tax at the time of purchase directly from the vendor or request a refund of the excess tax payment by filing a request for refund upon the forms provided by the Tax Commissioner.

Section 9: Contract with Tax Commissioner.

The Beulah City Auditor is authorized to contract with the Tax Commissioner for the administration and collection of taxes imposed by this Ordinance. The Beulah City Auditor has all powers granted the Tax Commissioner and in the absence of a valid contract with the Tax Commissioner or failure of the Tax Commissioner to perform the delegated duties, shall perform these duties in the place of the Tax Commissioner.

Section 10: Dedication of Tax Proceeds.

There shall hereby be created a City Sales and Use Tax Fund, which shall consist of three accounts, namely:

1. Sales and Use Tax - Municipal Swimming Pool Account;
2. Sales and Use Tax - Capital Improvements Account; and
3. Sales and Use Tax- Recreation Center Account.

All revenues raised and collected under this Ordinance, less administrative expenses, shall be placed in the City Sales and Use Tax Fund, and shall be dedicated exclusively as follows:

1. One-fourth (1/4) of the two percent (2%) City sales and use tax proceeds shall be placed in the Sales and Use Tax - Municipal Swimming Pool Account, and shall be dedicated to the purchase, construction, operation, and maintenance of the municipal swimming pool.
2. One-fourth (1/4) of the two percent (2%) City sales and use tax proceeds shall be placed in the Sales and Use Tax - Capital Improvements Account and shall be used for the purchase, construction, operation, and maintenance of Beulah area capital improvements including, but not limited to, street systems, water systems, sewer systems, public safety improvements, municipal swimming pool, or other projects important for the betterment of

- the City of Beulah.
3. One-half (1/2) of the two percent (2%) City sales and use tax proceeds shall be placed in the Sales and Use Tax-Recreation Center Account and shall be dedicated to the payment of the original construction indebtedness resulting for the construction of the Beulah recreation center.

Disbursements from either the Sales and Use Tax - Municipal Swimming Pool Account, the Sales and Use Tax - Capital Improvements Account, or the Sales and Use Tax- Recreation Center Account must first be approved by the Beulah City Council.

Section 11: Compensation.

City sales, use, and gross receipts tax permit holders are allowed to retain a portion of tax collected under this ordinance to help recover administrative expenses. This compensation shall equal three percent (3%) of the city tax due; however, the deduction is limited to One Hundred Fifty Dollars (\$150.00) per quarter. A tax return must be filed and paid in full by the scheduled due date or the compensation will be disallowed, and the tax obligation will be subject to penalty and interest.

Section 12: Effective Date.

This Ordinance shall take effect after its passage, approval, and publication.

Section 13: Termination Date.

The one percent (1%) sales and use tax imposed by this Ordinance for the Recreation Center shall terminate upon the full payment of the original construction indebtedness.

Section 14: Savings Clause.

Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

DATED this 6th day of January, 2020.



TRAVIS FREY
Mayor

ATTEST:



HEATHER FEREBEE

City Auditor

Introduction and First Reading: December 16, 2019

Second Reading: January 6, 2020

Publication Date: Not required.

Effective Date: January 6, 2020